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OCT 01 2007

OFFICE OF PETITIONS

In re Patent No. 6,878,733	:	DECISION ON REQUEST
Shenoy et al.	:	FOR
Issue Date: April 12, 2005	:	RECONSIDERATION OF
Application No. 09/716,332	:	DECISION ON REQUEST
Filed: November 21, 2000	:	FOR RECONSIDERATION OF
Atty Docket No. 038602-1060	:	PATENT TERM ADJUSTMENT
	:	

This is a decision on the "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT UNDER 37 CFR §1.705," filed February 27, 2006. Patentees request that the patent term adjustment indicated on the face of the Letters Patent be corrected from two hundred ninety-five (295) days to four hundred fifteen (415) days.

The request for reconsideration of the decision on request for reconsideration of patent term adjustment is **GRANTED**.

The patent term adjustment indicated in the patent is to be corrected by issuance of a certificate of correction showing a revised Patent Term Adjustment of four hundred fifteen (415) days.

On April 12, 2005, the above-identified application matured into U.S. Patent No. 6,878,733, with a revised Patent Term Adjustment of 295 days. By decision mailed February 8, 2005, the application for patent term adjustment filed March 24, 2004 was filed. By decision mailed January 23, 2006, the request for reconsideration of patent term adjustment filed April 27, 2005 was dismissed.

In response, patentees filed the instant request for reconsideration. Patentees argue that because applicants did not submit an "Amendment After Notice of Allowance (Rule 312)" on March 24, 2004, the assessment of 120 days of delay against Applicants for such a submission is improper.

First, of all, this request for reconsideration is timely filed as it was implicitly encompassed in the request for reconsideration timely filed April 27, 2005, and it was filed within two (2) months of the decision mailed January 23, 2006.

Secondly, a review of the record confirms that no amendment was filed on March 24, 2004. Rather, on that date, applicants filed a request for reconsideration of patent term adjustment. In this regard, § 1.704(e) provides that:

Submission of an application for patent term adjustment under § 1.705(b) (with or without request under §1.705(c) for reinstatement of reduced patent term adjustment) will not be considered a failure to engage in reasonable efforts to conclude prosecution (processing or examination) of the application under paragraph (c)(10) of this section.

Accordingly, the reduction of 120 days is being removed.

In view thereof, the patent should have issued with a revised patent term adjustment of four hundred fifteen (415) days.

The application file is being forwarded to the Certificates of Correction Branch for issuance of a certificate of correction in order to rectify this error. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by FOUR HUNDRED FIFTEEN (415) days.

Telephone inquiries specific to this matter should be directed to the undersigned at (571) 272-3219.



Nancy Johnson
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE
CERTIFICATE OF CORRECTION

PATENT : 6,878,733 B1
DATED : April 12, 2005
INVENTOR(S) : Shenoy et al.

DRAFT

It is certified that error appears in the above-identified patent and that said Letters Patent is hereby corrected as shown below:

On the cover page,

[*] Notice: Subject to any disclaimer, the term of this patent is extended or adjusted under 35 USC 154(b) by (295) days

Delete the phrase "by 295" and insert – by 415 days--